

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAMIEN T. GREEN and TIMOTHY CROWLEY,

Plaintiffs,

v.

GREGORY GRAMS, *et al.*,

Defendants.

ORDER

10-cv-745-slc

On November 16, 2011, I gave plaintiff Damien Green an extension of time, to December 14, 2011 to pay the \$1.09 initial partial payment of the \$350 filing fee in the case against the staff at the Wisconsin Secure Program Facility. The filing fee is to be applied to his new case (separated from this case on October 28, 2011) regarding Green's claims that defendants Rubin-Asch, Sharpe and Hoem failed to respond appropriately to Green's mental and physical health needs while he was a prisoner at Wisconsin Secure Program Facility. Now Green has filed a letter requesting the court to issue an order for the institution where he is housed to use his release account funds to pay his filing fee. Green's request will be granted and he will be provided a short extension of time to pay the filing fee in his new case.

As stated above, on October 28, 2011, Green was given the option to pursue his claims against defendants Rubin-Asch, Sharpe and Hoem for failing to respond appropriately to his mental and physical health needs while he was a prisoner at WSPF. These WSPF claims could not be joined to *this* lawsuit because they do not arise out of the "same transaction, occurrence, or series of transactions or occurrences. On November 4, 2011, plaintiff opted to pursue the WSPF claims in a separate lawsuit. This new case will be assigned case number 11-cv-816-slc. Once plaintiff pays the \$1.09 initial partial filing fee in case 11-cv-816-slc, the court will screen his first amended complaint as to the allegations pertaining to the WSPF claims as required under 28 U.S.C. § 1915A(a) and (b). If plaintiff does not have the money to make the \$1.09

initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$1.09 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that:

1. This case is SEVERED in accordance with Fed. R. Civ. P. 20. Plaintiff Damien Green's claims against Rubin-Asch, Sharpe and Hoem that defendants violated his constitutional rights while he was a prisoner at Wisconsin Secure Program Facility shall proceed as **case number 11-cv-816-slc**. The clerk of court is directed to open case number 11-cv-816-slc and docket plaintiff's first amended complaint as the operative pleading in this new case.
2. Plaintiff Damien Green has until **December 27, 2011** to pay the initial partial filing payment of **\$1.09 of the \$350 fee for filing** for case **11-cv-816-slc**. He is to submit a check or money order made payable to the clerk of court in the amount of \$1.09 on or before December 27, 2011. If, by December 27, 2011, plaintiff fails to make the initial partial payment or show cause for his failure to do so, then the court will conclude that he has withdrawn this action voluntarily. In that event, the clerk of court is directed to close case 11-cv-816-slc without prejudice to plaintiff's filing this case at a later date.

Entered this 8th day of December, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge